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2017 MAY 31 PM 2:58  
CLERK  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
THE DISTRICT OF UTAH, CENTRAL DIVISION

SUB ZERO FRANCHISING, INC., a  
Utah corporation,

Plaintiff/Counterclaim  
Defendant

v.

FRANK NYE CONSULTING, LLC, d/b/a  
THE ARCTIC SCOOP, a Kentucky limited  
liability company,  
FRANK NYE, an individual, and  
ALISON NYE, an individual,

Defendants/Counterclaimants

**ORDER OF DISMISSAL**

Case No. 2:15-cv-00821-BSJ

Honorable District Judge Bruce S. Jenkins


This matter having come before the Court on May 22, 2017 for a hearing on Defendants' Motion to Dismiss (DN 36) and Plaintiff's Motion for Leave to File Second Amended Complaint (DN 40), and the Court having considered the arguments presented at the hearing, the motions, memoranda and exhibits of the parties, and being otherwise duly and sufficiently advised;

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss is GRANTED, and that Plaintiff's claims set forth in its Amended Complaint (DN 17) for infringement of U.S. Patent No. 8,679,566 (DN 17, "Fourth Claim for Relief") and infringement of U.S. Patent No. 7,455,868 (DN 17, "Fifth Claim for Relief") are hereby DISMISSED, without prejudice, the Court having determined that Plaintiff lacked standing to assert a claim for infringement of U.S. Patent No. 8,679,566 or of U.S. Patent No. 7,455,868.

IT IS FURTHER ORDERED that Defendants' Counterclaims set forth in their Amended Answer and Counterclaims to Amended Complaint (DN 34) are hereby DISMISSED, without prejudice.

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File Second Amended Complaint (DN 40) is DENIED.

DATED this 31 day of May, 2017.

  
U.S. District Court Judge Bruce S. Jenkins

Approved as to form:

By: /s/ Adam D. Stevens  
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